

CEMETERY FUNDS

H. F. 82

AN ACT to amend, revise, and codify chapter twelve (12) of title twenty-three (23) of the compiled code of Iowa, and of the supplement to said code, relating to trustees to manage cemetery funds.

Be It Enacted by the General Assembly of the State of Iowa:

That chapter twelve (12) of title twenty-three (23) of the compiled Code of Iowa, and of the supplement to said Code, is amended, revised, and codified to read as follows:

CHAPTER 12

TRUSTEES TO MANAGE CEMETERY FUNDS

Section 1. Trustee - appointment - trust funds. The owners of, or any party interested in, any cemetery may, by petition presented to the district court of the county where the cemetery is situated, have a trustee appointed with authority to receive any and all moneys or property that may be donated for and on account of said cemetery and to invest, manage, and control same under the direction of the court; but he shall not be authorized to receive any gift, except with the understanding that the principal sum is to be a permanent fund, and only the net proceeds therefrom to be used in carrying out the purpose of the trust created, and all such funds shall be exempt from taxation.

Sec. 2. Requisites of petition. Such petition may state the amount proposed to be placed in such trust fund, the manner of investment thereof, the provisions made for the disposition of any surplus income not required for the care and upkeep of the property described in such petition. Such provisions shall all be subject to the approval of the court and when so approved the trust fund and the trustee thereof shall, at all times, be subject to the orders and control of the court and such surplus arising from said fund shall not be used except for charitable, eleemosynary, or public purposes under the direction of the court.

Sec. 3. Receipt attested by clerk - cemetery record. Every such trustee shall execute and deliver to the donor a receipt showing the amount of money or other property received, and the use to be made of the net proceeds from same, duly attested by the clerk of the court granting letters of trusteeship, and a copy thereof, signed by the trustee and so attested, shall be filed with and recorded by the clerk in a book to be known as the cemetery record, in which shall be recorded all reports and other papers, including orders made by the court or judge relative to cemetery matters.

Sec. 4. Loans - security. Any such trustee shall loan all moneys received by him, under the direction and with the approval of the court, but only as same may be secured by first mortgage upon Iowa real estate, and no loan shall be made or approved, unless it be made to appear upon oath of three (3) disinterested citizens that such real estate is worth at least double the amount of the loan applied for, and that the applicant for the loan has good title thereto. Said trustee may invest said fund in government bonds of the United States, federal farm loan bonds, bonds issued by authority of law by cities, towns, counties, school or drainage districts at their marketable value.

Sec. 5. Bond - approval - oath. Every such trustee before entering upon the discharge of his duties or at any time thereafter when required by the court or judge, must give bond in such penalty as may be required by the court, approved by the clerk, conditioned for the faithful discharge of his duties, and take and subscribe an oath the same in substance as the condition of the bond, which bond and oath must be filed with the clerk

Sec. 6. Clerk-duty of-additional bond. It shall be the duty of the clerk at the time of filing each such receipt, to at once advise the court or judge as to the amount of the principal fund in the hands of such trustee, the amount of bond filed, and whether it is good and sufficient for the amount given.

Sec. 7. Compensation - expenses. Such trustee shall serve without compensation, but may, out of the income received, pay all proper items of expense incurred in the performance of his duties, including cost of bond, if any.

Sec. 8. Annual report. Such trustee shall make full report of his doings in the month of January following his appointment and in January of each successive year. In each of said reports he shall apportion the net proceeds received from the sum total of the permanent fund and make proper credit to each of the separate funds assigned to him in trust.

Sec. 9. Removal - vacancy filled. Any such trustee may be removed by the court or judge thereof at any time for cause, and in the event of removal or death, the court or judge must appoint a new trustee and require his predecessor or his personal representative to make full accounting.

Sec. 10. County auditor to act as trustee. In case no trustee is appointed, or if so appointed does not qualify, then such funds, or any funds donated by any person or estate to improvement of cemeteries, unless otherwise provided by law, shall be placed in the hands of the county auditor, who shall receipt for, loan, and make annual reports of such funds in such manner as provided in this chapter.

Sec. 11. Auditor to turn over interest annually. The said auditor shall annually turn over the accrued interest in his hands to the cemetery association or other person having control of the cemetery entitled thereto, who shall use the same in carrying out the provisions of said trust, and who shall file a written report annually with the county auditor.

Sec. 12. Municipal corporation as trustee. Cities, irrespective of their form of government, incorporated towns, and civil townships wholly outside of any city or incorporated town, shall be and they are hereby created trustees in perpetuity, and are required to accept, receive, and expend all moneys and property donated or left to them by bequest, to be used in caring for the property of the donor in any cemetery, or in accordance with the terms of such donation or bequest, and the money or property thus received shall be used for no other purpose.

Sec. 13. Authority to invest funds. The mayor and council and trustees as the case may be, shall have authority to receive and invest all moneys and property, so donated or bequeathed, in bonds of the United States, federal farm loan bonds, bonds issued by authority of law by cities, towns, counties, school or drainage districts. Such money must be invested at the market value of such securities, and they shall use the income from such investment in caring for the property of the donor in any cemetery, or as shall be provided in the terms of such gift or donations.

Sec. 14. Resolution of acceptance required. Before any part of the principal may be so invested or used, the said city, incorporated town, or civil township shall, by resolution, in accordance with the law as now provided, accept said donation or bequest, and shall, by said resolution, duly provide for the payment of interest thereon at the rate of not less than two percent (2%) per annum, payable annually, to the cemetery fund or to the cemetery association, or to the person having charge of said cemetery, to be used in caring for or maintaining the individual property of the donor in said cemetery, all to be in accordance with the terms of the donation or bequest.